

HUANG LAW GROUP, P.C.

A Professional Corporation

Xue Huang, Esq.
xhuang@huanglawgroup.com

Flushing Commons
38-08 Union Street, Suite 9B
Flushing, New York 11354
Tel: (718) 886-5900

www.huanglawgroup.com

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Hon. Allyne R. Ross
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: BENG KHOON LOO a/k/a David Loo et. al. v. I.M.E. RESTAURANT INC.
d/b/a Pho Vietnamese Restaurant et. al.
Case No.: 17-cv-2558

Dear Judge Ross:

We represent Defendants I.M.E. Restaurant Inc. d/b/a Pho Vietnamese Restaurant, PHO 92 Restaurant, Inc. d/b/a Pho Vietnamese Restaurant (the “Corporate Defendants”), Tai Viem Ma, Chau Xao Ma, Irene Ma and Michael Ma in the above-captioned FLSA action. Pursuant to Your Honor’s Individual Rules, we are writing to seek a pre-motion conference to file a motion for summary judgment to dismiss the complaint against Defendants Chau Xao Ma, Irene Ma and Michael Ma under Rule 56.

The complaint against Defendants Chau Xao Ma, Irene Ma and Michael Ma should be dismissed because they were not “employers” of Plaintiffs under the Fair Labor Standards Act and the New York Labor Law. Defendants Irene Ma and Michael Ma are children of Co-Defendant Tai Viem Ma. However, they have never been shareholders, owners, officers, directors, managers, or employees of the Corporate Defendants. Defendant Chau Xao Ma was employed as a cashier for the Corporate Defendants from approximately 2013 to 2017 and received a regular salary for her employment. But, she has never been a shareholder, owner, officer, director, or manager of the Corporate Defendants. In fact, Defendant Tai Viem Ma was the sole owner and manager of the Corporate Defendants which operated a small restaurant with about five dining tables.

Defendants Chau Xao Ma, Irene Ma and Michael Ma had no authority and played no roles in the hiring, firing and managing of the employees of the Corporate Defendants. They were not involved in the employment of the Plaintiffs. In fact, Ms. Irene Ma has been employed as a full-time employee by Citi Bank from 2011 to 2015 and by JP Morgan Chase Bank from 2015 to the present. Mr. Michael Ma has been running and managing his own business at a separate location. They were never involved with the operation of the Corporate Defendants.

In fact, both Michael and Irene Ma rarely visited the restaurant.

Since Defendants Chau Xao Ma, Irene Ma and Michael Ma were not owners or managers of the Corporate Defendants, and did not operate or manage the restaurant at issue at the time relevant to Plaintiffs' claims, Plaintiffs fail to state a valid wage and hours claim against them. Therefore, we respectfully request the Court to hold a conference for the above-stated matter. We sincerely appreciate the Court's consideration of the request.

Very truly yours,

/s/ Xue Huang

cc: John Troy, Esq. (via ECF)